

March 7, 2005

Dear Stakeholders:

Thank you for your interest in the Middle Rio Grande Endangered Species Act Collaborative Program. This newsletter is our opportunity to provide you with an update of our activities over the past year.

The initial collaborative efforts began with a workgroup in 1998. Since that time the Program has evolved, developing a variety of intergovernmental and private sector coordination documents (Memoranda of Understanding), and has emerged as a collection of federal and nonfederal agencies, environmental and business groups, Pueblos and Tribes, and universities, all agreeing to collaborate on efforts to contribute to the recovery of federal Endangered Species Act (ESA) listed species in the Middle Rio Grande.

Accomplishments of the Program since its inception can be reviewed through a variety of scholarly, managerial, and administrative documents on the Program website at www.mrgesacp.fws.gov.

The Program functions through a set of committees and subcommittees, led by an Executive Committee consisting of representatives of the signatories. At present there is an Interim Steering Committee, with subcommittees for Habitat Restoration, Science, Water Acquisition and Management, Program Management, and Public Outreach.

In 2004 we made significant progress in both technical areas and Program management. The current endeavor is completion of a Long-Term Plan to guide Program management over the next decade. The Program Document and the Cooperative Agreement will provide direction for the Program purpose, goals, and governance. The Long-Term Plan will provide schedule and budget information until 2014, as well as allow effective adaptive management practices. The Programmatic Environmental Impact Statement currently being prepared will provide NEPA compliance for implementation of Program activities.

I encourage you to participate in the additional public involvement process discussed elsewhere in this newsletter and to provide your comments on the Program for inclusion in the Draft Programmatic EIS.

Peter David, US Fish and Wildlife Service
Program Manager



Public Scoping Report and Program Update

Middle Rio Grande Endangered Species Act Collaborative Program

Programmatic Environmental Impact Statement

TO COMMENT

Regular Mail:

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Collaborative Program**
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*Comment Deadline for
Inclusion in Draft PEIS:
March 18, 2005*

Who are the Program Signatories?

New Mexico Department of Agriculture
Alliance for the Rio Grande Heritage
Assessment Payers Association of the
Middle Rio Grande Conservancy District
Bureau of Indian Affairs
City of Albuquerque
Middle Rio Grande Conservancy District
New Mexico Attorney General
New Mexico Department of Game & Fish
New Mexico Interstate
Stream Commission

National Association of Industrial
and Office Properties
Pueblo of Sandia
Rio Grande Restoration
Rio Grande Water Rights Association
Pueblo of Isleta
United States Fish and Wildlife Service
United States Army Corps of Engineers
United States Bureau of Reclamation
University of New Mexico
USDA-Rocky Mountain Research Station

EIS Process Timeline

**Notice of Intent
to prepare PEIS**

**June 20,
2003**

**30-Day Scoping
and Public
Involvement**

**November 4—
December 5,
2003**

WE ARE HERE

**Preparation
of Draft
Programmatic
Environmental
Impact Statement**

**January—
May,
2005**

**Draft
Programmatic
Environmental
Impact Statement
Available to Public**

**May 23,
2005**

**Public Comment
Period**

**May 23—
July 6,
2005**

**Final
Programmatic
Environmental
Impact Statement**

**August 30,
2005**

**Record
of
Decision**

**September 1,
2005**

**Sign
Cooperative
Agreement**

**October 4,
2005**

What are the Program Goals?

Through the Program, the Signatories to the Cooperative Agreement would strive to ensure the survival and recovery of the Rio Grande silvery minnow (RGSM) and the southwestern willow flycatcher (SWFL) in the Middle Rio Grande. At the same time, the Program would seek to resolve conflicts among parties interested in, or having responsibility for, species protection and water development and management, all while complying with New Mexico state law and federal law. Responsibility for the efficiency and effectiveness of the Program, and its viability as a means for complying with the ESA, rests with all Signatories. With the formation of the federally recognized Program, the Signatories would agree to cooperate and to seek funding to achieve the following goals of the Program:

Goal 1—Within the Middle Rio Grande, act to prevent extinction, preserve reproductive integrity, improve habitat, support scientific analysis, and promote recovery of the RGSM and SWFL. The Program will strive to accomplish this in a manner that benefits the ecological integrity, where feasible, of the Middle Rio Grande riverine and riparian ecosystem. Program activities should benefit other protected species, maintain wild populations, improve the efficiency of water use and management, and provide water to sustain the RGSM and SWFL.



PHOTO: COURTESY NM DEPT. GAME AND FISH



PHOTO: COURTESY NM DEPT. GAME AND FISH

Goal 2—Develop agreements with water users and water management entities that will make supplemental water available, and manage the storage and release of water, in ways that contribute to the recovery of RGSM and SWFL.



PHOTO: SWCA

Goal 3—Implement creative and flexible options under the ESA so that existing, ongoing, and future water supply and water resource management activities and projects may continue to operate and receive necessary permits, licenses, funding, and other approvals.

Goal 4—Implement the Program consistent with—and in a manner that does not impair—pre-existing water rights and obligations while exercising creativity and flexibility to address the needs of the RGSM and SWFL. Water rights and obligations to be protected include: valid state water rights; federal reserved water rights of individuals and entities; San Juan–Chama contractual rights; the State of New Mexico's ability to comply with interstate stream compact delivery obligations; and Indian trust assets including federal reserved Indian water rights, prior and paramount, and time-immemorial water rights.



PHOTO: SWCA

What is the Program Area?

The Program area potentially affected by the Program (also referred to as the Middle Rio Grande) is defined as the headwaters of the Rio Chama watershed and the Rio Grande, including tributaries, from the New Mexico–Colorado state line downstream to elevation 4450 feet above mean sea level, the elevation of the spillway crest of the Elephant Butte Dam. Indian Pueblo and Tribal lands and resources within the Program area will not be included in activities under the Program without the express written consent of the Pueblo(s) or Tribe(s).

What is the Purpose and Need for the Collaborative Program?

The purpose of and need for adopting and implementing the Program is to provide the framework for implementing creative and flexible options under the Endangered Species Act, consistent with state and federal law, including delivery obligations under the Rio Grande Compact, so that existing, ongoing, and future water supply and water resource management activities and projects can continue to operate and receive necessary permits, licenses, funding and other approvals, while creating conditions that will act to prevent extinction, preserve reproductive integrity, improve habitat, support scientific analysis, and contribute to recovery of the listed species in the Rio Grande basin between the Colorado state line and the headwaters (elevation 4450 feet) of Elephant Butte Reservoir.

The purpose of the Program is to provide for coordinated identification and implementation of recovery actions that will improve the status of listed species and aid in providing and maintaining Endangered Species Act coverage for agencies, entities, and individuals in the Middle Rio Grande and to provide a means for those entities to meet their respective responsibilities and obligations under the ESA.

The need for the proposed action is to provide a viable long-term solution to potential conflicts over uses of water resources in the Middle Rio Grande, and specifically for resolving conflicts between measures taken for the recovery of threatened and endangered species and requirements for existing and future water uses. In addition, the establishment of the Program would

make it possible to secure federal funding for planning and executing on-the-river restoration projects and to establish a cost-share agreement between federal and non-federal signatories for funding program activities.

What is the Purpose of the Draft Programmatic EIS?

The purpose of the Draft Programmatic Environmental Impact Statement (DPEIS) is to provide National Environmental Policy Act (NEPA) documentation to establish and implement Program activities, including future funding for the Program, and establish a permanent, federally authorized Middle Rio Grande Endangered Species Act Collaborative Program to respond to these issues. In addition, the Draft PEIS will:

- Evaluate the potential for environmental and socioeconomic impacts as a result of the Program
- Evaluate the consequences of not authorizing the Program
- Provide an Agency decision-making tool that will compare and analyze Program alternatives
- Track and document the process used to reach decisions
- Serve as a public information document

What has been done so far?

Scoping:

The Public Scoping process has two parts: providing information to community members about decisions that directly affect them, and soliciting information about the interests and concerns of the community.

The purpose of Public Scoping was to identify environmental issues to be considered in the Draft PEIS. For the Middle Rio Grande Endangered Species Act Collaborative Program, scoping lasted from November 4 to December 5, 2003.

During that time, community open-house meetings were held in Santa Fe on Tuesday

November 4, in Socorro on Wednesday November 5, and in Albuquerque on Thursday November 6, 2003. In addition, two Tribal meetings were held, on Friday November 14 and Wednesday December 3, 2003.

These scoping meetings allowed community members the opportunity to identify their concerns about the Collaborative Program, make suggestions for Program management, and prioritize Program issues.

Public Comment Process:

Responses to the request for public comment on establishing the MRG ESA Collaborative Program are summarized elsewhere in this newsletter. Comments were received verbally during the scoping meetings and by both e-mail and regular mail sent to Program-dedicated addresses. All comments were given equal consideration, regardless of method of transmittal.

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Additional Comment Opportunities:

Through this newsletter, stakeholders are being made aware of the status of the MRG ESA Draft PEIS. Stakeholders may comment on information provided in this newsletter, on the status of the NEPA process, or on issues related to Program funding and projected expenditures through the life of the Program (2005–2014). Comments may be sent to the location shown on the bottom left of page 1 of this newsletter, and must be received by March 18, 2005, to be considered in the development of the Draft PEIS. The Draft PEIS is scheduled to be provided to the public in May of 2005.

Public and Tribal/Pueblo hearings on the Draft PEIS are currently scheduled for June 2005, and will be held in Santa Fe, Socorro, and Albuquerque, NM. Comments on the Draft PEIS will be received through July 6, 2005.

What are the concerns of the public?

Community issues and concerns provided during the 60-day scoping period encompassed 88 separate comments. To ensure that each issue would be addressed in the Draft PEIS, they were categorized into 33 distinct topics; on some topics only a single comment was received, while topics relating to the overall Collaborative Program generated multiple comments. A sampling of comments received (and addressed in the Draft PEIS) appears on page 4.

PHOTO: COURTESY NM DEPT. GAME AND FISH



SYNOPSIS OF PUBLIC COMMENTS

Here's a sampling of what we heard...

Adaptive Management:

If monitoring allows for traditional knowledge, will that knowledge be used in adaptive management?

Bosque Restoration:

How much restoration will be "manipulative" versus letting "natural" regeneration occur?

Citizen Roles:

What is the role for the private citizen within the overall Collaborative Program?

Collaborative Program Goals:

The Program should adopt bolder aspirations; the Program's single-species management style will not address the prevention of future listings [endangered species] through comprehensive ecosystem management.

How do the Program's goals, as a whole, mesh with the distinct goals of the many diverse agencies?

Collaborative Program in General:

A concern that federal signatories will receive a disproportionate amount of funding over state, Tribal, Non-Government Organizations, and other groups' projects.

The document should explain how individual projects would work under the Program.

Of the many agencies and parties involved, who has a vote, who doesn't, and how was this decided?

Can individual agencies do their own projects away from the Program, and if so, what role will the Program have in those projects?

What becomes of both prior and ongoing projects? Will they be moved under the umbrella of the Program?

Economic Issues:

Might there be a grant program for farmers to add to or improve irrigation structures and practices?

Indian Trust Assets:

Federal agency signatories need to bear in mind the unique intersection of this task [the Draft PEIS] with the federal agencies' trust responsibility to the Pueblos.

The NEPA Process:

It seems the Program already exists; what's the PEIS for?

Pueblo/Tribal:

A concern that Pueblos be equally represented in the Program and via contacts made by the Outreach Subcommittee.

There seems to be minimal or no involvement by Pueblos or other cultural groups, beyond all the governmental agencies who are signatories.

The Six Middle Rio Grande Pueblos should not be forced to bear a disproportionate burden of the endangered species recovery effort.

Pueblo/Tribal Water Rights:

A concern about terminology: Tribal water rights should be listed as an "issue" of institutional constraints, not an actual "constraint."

The Collaborative Program must recognize and respect Indian sovereignty and Indian water rights.

Federal agencies must assess whether the Program structure in any way creates or institutionalizes disincentives to the continued development of Indian water rights.

State Rights:

The Program needs to keep (or create) equal weight between federal and state concerns so that state rights are adequately covered.

A concern that state water rights will not be upheld if federal law wants water to be given to the Rio Grande silvery minnow.

Threatened and Endangered Species:

No critical habitat is designated for the southwestern willow flycatcher within the Middle Rio Grande, so why is [the species] included in this Program?

The commenter supports the Program, but it covers only two species and with only one

act (ESA). What about other Threatened & Endangered species in the area?

Tribal Confidentiality:

Some Pueblo data (hydrology, etc.) will bring up sensitivity/privacy issues. Will the Program penalize Pueblos based on the nature of the data they may share?

Commenter wants language in the PEIS supporting the Program's intent to judiciously use a Pueblo's data.

Water Conservation:

Will Albuquerque be required to improve or adjust water uses in the city?

Albuquerque citizens are using water for golf courses, etc., while asking other areas to stop or reduce use for critical things such as irrigation.

Water Planning:

The intent is to squeeze more water from the river/aquifer without addressing conservation—the cheapest alternative.

The Program extends another decade beyond the 2003 State Water Plan. Do the plans consider each other?

Water Rights:

[Regarding the need for water generated by Program activities], Who would (could) take our water away?

Education is required so people understand the true hydrology of the Rio Grande as well as how water rights are supposed to work.

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